

## **SUBCHAPTER 1. GENERAL PROVISIONS**

13:69B-1.1 Definitions

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### **13:69B-1.1 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Exclusion list" is defined at N.J.A.C. 13:69G-1.1

"Letter Report" means a written report from the Division of Gaming Enforcement setting forth its position on an initial or resubmission license application.

"OAL" means the Office of Administrative Law.

"Party" means any person or entity directly involved in a contested case, including petitioner, respondent, intervenor, or State agency proceeding in any such capacity.

"UAPR" means the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### **13:69B-1.2 Applicability of rules**

(a) This chapter shall govern the procedural aspects pertaining to the conduct of all contested cases including:

1. Initial and retention applications for casino service industry licenses;

2. Complaints against casino service industry licensees, casino employee registrants and labor organization registrants seeking revocation of such license or registration;

3. Complaints against licensees and registrants for violations of the Casino Control Act;

4. Complaints seeking forfeiture of cash winnings or anything of value obtained in a gaming transaction by a person prohibited by law from engaging in such transaction; and

5. Petitions to place a candidate on the exclusion list.

(b) In addition to the UAPR, the provisions of the Casino Control Act and the rules in this chapter shall apply to the appropriate contested case hearing initiated pursuant to the Casino Control Act.

(c) To the extent that the Act and the rules in this chapter are inconsistent with the UAPR, the former shall apply.

### **13:69B-1.3 Right to a hearing**

(a) The Division shall not deny, refuse to allow retention of or revoke any license or registration or place a candidate on the exclusion list unless it has first afforded the licensee, registrant or candidate for exclusion an opportunity for a settlement conference, followed by a hearing upon failure to reach a settlement with the Division, in accordance with law and the rules of the Division.

(b) When the Division has authority under the Act or the rules of the Division to suspend a license or registration without first holding a hearing, it shall promptly upon exercising such authority afford the licensee or registrant an opportunity for:

1. A settlement conference with the Division, and
2. Upon failure to reach a settlement with the Division, a hearing

in accordance with law and the rules of the Division.

(c) This section shall not apply where:

1. The Act provides that the Division is not required to grant a hearing in regard to the refusal to allow retention of a license or registration; or

2. The Division is required by law to refuse to allow retention of a license or registration without exercising any discretion in the matter on the basis of a judgment of a court of competent jurisdiction.

## **SUBCHAPTER 2. CONDUCT OF CONTESTED CASES**

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### **13:69B-2.1 Commencement of a contested case**

(a) A contested case shall be commenced at the direction of the Division or by the filing of one of the following by the Division:

1. A letter report recommending that an application for initial or resubmission licensure, registration or qualification should not be granted or continued;
2. A written complaint or statement of charge, which sets forth in ordinary and concise language the charges against a licensee, registrant or applicant and the acts or omissions supporting such charges;

3. A written petition to place a candidate on the exclusion list, which sets forth in ordinary and concise language the grounds for exclusion; or

4. A written complaint seeking forfeiture of winnings or things of value obtained in a gaming transaction by a prohibited person as defined in N.J.A.C. 13:69G-3.1.

(b) A filed letter report recommending that an application be granted, or taking no position on an application, will not commence a contested case unless otherwise directed by the Division.

### **13:69B-2.2 Notice of right to hearing**

(a) The Division shall serve upon the applicant or respondent a copy of the pleading and a written notice of the right to a hearing and the responsibility to request a hearing, as follows:

1. Complaints shall be served upon a licensee, applicant or registrant either personally or by certified mail;

2. Letter reports regarding a contested application shall be served upon an applicant by ordinary mail;

3. Petitions for exclusion shall be served on the candidate for exclusion personally, by certified mail at the last known address of the candidate for exclusion or by publication daily for one week in a newspaper of general circulation in Atlantic City, New Jersey; and

4. A forfeiture complaint shall be served upon the prohibited person, as defined in N.J.A.C. 13:69G-3.1, either personally or by regular mail at the mailing address provided by the prohibited person pursuant to N.J.A.C. 13:69G-3.2(b).

### **13:69B-2.3 Request for a hearing**

(a) Any request for a hearing shall be filed with the Division, with one

copy to each other party, within 30 days of receipt of notice of a petition for exclusion, or within 15 days of receipt of notice of a contested application or complaint. Such request may include a notice of defense which sets forth:

1. Admission or denial of the allegations in whole or in part;
2. Affirmative defenses, new matters or explanations by way of defense; or
3. Any legal objection.

(b) A party's request for hearing shall be filed with the Division's Contested Case Intake Unit at:

1300 Atlantic Avenue  
4<sup>th</sup> Floor  
Atlantic City, NJ 08401

**13:69B-2.4 Failure to request a hearing; withdrawal of a request;  
final action**

(a) If a party fails to timely file a request for a hearing pursuant to N.J.A.C. 13:69B-2.3, or withdraws a request for a hearing, the Division may:

1. Order a hearing on its own motion; or
2. Determine that such action constitutes a waiver of the right to a hearing and admission of all material allegations of fact in the complaint or petition for exclusion or failure to affirmatively demonstrate qualification or absence of disqualification for licensure or registration. The Division may take final action including, without limitation:
  - i. Denial of any pending initial or resubmission application;
  - ii. Revocation of a license or registration;
  - iii. Prohibition of direct or indirect business with casino licensees or applicants;
  - iv. Imposition of a monetary penalty;
  - v. Placement on the exclusion list;

vi. Order forfeiture of any winnings or things of value obtained by a prohibited person and seized pursuant to N.J.A.C. 13:69G-3.2; or

vii. Other relief that is consistent with the policies of the Act and in the public interest.

**13:69B-2.5** Scheduling of settlement conference;

purpose of settlement conference; multiple settlement conferences

(a) Upon a party's request for a hearing, the Division shall schedule a settlement conference at the Division's offices.

(b) The purposes of the settlement conference are to:

1. Afford the Division and the applicant or respondent an opportunity to amicably resolve all outstanding issues raised in the Division's letter report, revocation or violation complaint or exclusion or forfeiture petition; and

2. Identify all unresolved issues to be addressed at a hearing.

(c) In the interests of the efficient administration of a contested case, the Division may schedule additional conferences to achieve either of the purposes in (b) above.

**13:69B-2.6 Transmission to the OAL or designation of a hearing examiner**

(a) Upon the failure of the parties to enter into a stipulation of settlement, the matter shall be transmitted to the Director for further proceedings.

(b) Unless the Director hears a contested case directly, the Director may refer the matter to the OAL or designate a staff member of the Division or other

qualified person other than an employee of the Division to serve as hearing examiner.

(b) If a hearing examiner becomes unavailable at anytime after the commencement of a hearing but prior to the filing of the initial decision, the Director may in his discretion hear the matter directly, appoint another hearing examiner or transfer the contested case to the OAL. The Director or the new hearing examiner may either continue the hearing and render a decision upon the entire record or begin the hearing anew.

### **13:69B-2.7 Contested case hearings**

(a) Hearings before the Director or a hearing examiner appointed by the Director shall be informal administrative proceedings to provide an applicant or respondent with an opportunity to: be heard; present documentary, testimonial and other evidence on that person's behalf; and cross-examine witnesses presented by the Division.

(b) The Director or hearing examiner appointed by the Director shall identify all legal issues unresolved through the settlement conference, and at the discretion of the Director or the hearing examiner appointed by the Director, the parties may be required to submit legal briefs on those issues to the Director or the hearing examiner appointed by the Director no later than 15 days prior to the scheduled date for the contested case hearing.

(c) The Director or hearing examiner appointed by the Director may, to maintain an efficient process, limit the parties' presentations during a hearing.

### **13:69B-2.8 Burden of proof**

(a) The Division shall have the affirmative obligation to establish by a preponderance of the evidence violations of the Act or disqualification pursuant to N.J.S.A. 5:12-86.



(b) The Division shall have the affirmative obligation to establish by a preponderance of the evidence that a candidate for exclusion satisfies the criteria for exclusion set forth in N.J.S.A. 5:12-71 and N.J.A.C. 13:69G. In a hearing pursuant to N.J.A.C. 13:69G-1.8, the excluded person shall have the affirmative obligation to show cause why he or she should be removed from the list.

(c) Matters pertaining to candidates for preliminary exclusion shall be handled in accordance with N.J.S.A. 5:12-71, N.J.A.C. 13:69G and N.J.A.C. 13:69B-4.1 and 4.2.

(d) An applicant or respondent shall have the affirmative obligation to establish by clear and convincing evidence affirmative qualification for licensure.

(e) An applicant or respondent shall have the affirmative obligation to establish by clear and convincing evidence rehabilitation in accordance with N.J.S.A. 5:12-91d.

(f) The Division, in a hearing seeking forfeiture, shall have the affirmative obligation to establish by a preponderance of the evidence that the respondent is a prohibited person as defined in N.J.A.C. 13:69G-3.1 and was engaged in a gaming transaction. Any winnings or other things of value resulting from a gaming transaction that are not claimed within six months of the date of the transaction shall be presumed to have been won by a prohibited person who has waived his or her right to a hearing. There shall be a rebuttable presumption that the winnings or things of value seized from the respondent were obtained from engaging in a gaming transaction and therefore subject to forfeiture. In order for the respondent to rebut this presumption the respondent shall have the affirmative obligation to prove by a preponderance of the evidence that the winnings or things of value, or any portion thereof, were not obtained from engaging in a gaming transaction.

### **13:69B-2.9 Decision of the Division**

The Director or hearing examiner appointed by the Director shall render the decision of the Division within 45 days after the conclusion of the contested case hearing, unless otherwise extended by the Director or hearing examiner appointed by the Director upon notice to the parties.

### **13:69B-2.10 (Reserved)**

### **13:69B-2.11 Effect of settlement**

(a) If the parties agree to a settlement prior to transmission of the case to the Director, a hearing examiner appointed by the Director or the OAL, a written stipulation signed by all parties shall be submitted to the Director, or to a staff member of the Division designated by the Director, for review and approval, as appropriate. The Director, or a staff member of the Division designated by the Director, may:

1. Approve the settlement;
2. Approve the settlement as modified with the consent of the party;
3. Reject the settlement and remand the contested case to be scheduled for further proceedings; or
4. Take such action as the Director, or a staff member of the Division designated by the Director, deems appropriate.

(b) No settlement shall be approved by the Director, or by a staff member of the Division designated by the Director, unless the settlement agreement is voluntary, consistent with the law and fully dispositive of all issues in controversy.

(c) An executed stipulation of settlement shall, upon approval by the Director, or by a staff member of the Division designated by the Director, be

considered a withdrawal of any hearing request and evidence of informed consent to such Division action as described therein.

### **13:69B-2.11A Wage executions**

(a) The Division may condition the granting or retention of a license or registration or the granting of a petition pursuant to N.J.A.C. 13:69A-8.9 or 8.10 upon compliance with a court order or a consent agreement with the Division pursuant to which a portion of an applicant's, licensee's, registrant's or petitioner's wages will be withheld as an installment payment against a financial obligation owed or secured, directly or indirectly, to this State or any subdivision thereof or other governmental entity.

(b) Any individual who is subject to a Division order pursuant to (a) above shall:

1. Submit a copy of the Division order and the relevant court order or consent agreement to his or her current employer and to any future casino employer until the obligation is paid in full; and

2. Notify the Division when the terms of the court order or consent agreement have been satisfied, including evidence that the obligation has been paid in full. Such notice shall be directed to the Division at the address specified in N.J.A.C. 13:69-2.3.

### **13:69B-2.12 Motions for reconsideration; motions to reopen the record; motions for relief**

(a) Any party may, within 10 days after the service of a final Division order, file a motion for reconsideration which motion may seek to reopen the record. The motion shall be in writing and shall state the grounds upon which relief is sought. The Division may grant such motion, under such terms and conditions as the Division may deem appropriate, when the Division finds just

cause for reconsideration of the order based upon legal, policy or factual argument advanced by the movant or raised by the Division on its own motion.

(b) Any party may, within one year after the service of a final Division order, file a motion to reopen the record based upon newly discovered evidence. The motion shall be supported by an affidavit of the moving party or counsel showing with particularity the materiality and necessity of the additional evidence and the reason why such evidence was not presented at the original hearing or on a motion for reconsideration pursuant to (a) above. The Division may grant such motion upon a showing that the newly discovered evidence is material and necessary, that sufficient reason existed for failure to present such evidence and that the evidence is reasonably likely to change the final decision of the Division. Upon reconsideration, the Division may modify its decision and order as the additional evidence may warrant.

(c) Any party may, within one year of the service of a final Division order, file a motion for relief from such an order. The motion shall be in writing and shall state the grounds upon which relief is sought. The Division may grant such motion and vacate or modify the order, reopen the record, or grant a hearing pursuant to N.J.S.A. 5:12-107, upon a showing of the following:

1. Mistake, inadvertence, surprise or excusable neglect;
2. Fraud, misrepresentation or other misconduct of an adverse party; or
3. Any other reason consistent with the public policy of the Act and in the interests of justice.

(d) No motion filed pursuant to this section, and no order granting such motion, shall suspend the operation of any Division order unless otherwise specified by order of the Division.

### **13:69B-2.13 Appeal from Division decision**

- (a) Within 30 days from the issuance by the Director or a hearing

examiner appointed by the Director of a Division decision, a party may appeal the decision, upon notice to the Division, to the Casino Control Commission which may review and decide any appeal of a final Division decision pursuant to N.J.S.A. 5:12-63b.

### **SUBCHAPTER 3. EMERGENCY RELIEF**

13:69B-3.1 (Reserved)

13:69B-3.2 Orders granting emergency relief; form; service

13:69B-3.3 Emergency orders; hearings; complaint

13:69B-3.4 (Reserved)

#### **13:69B-3.1 (Reserved)**

#### **13:69B-3.2 Orders granting emergency relief; form; service**

(a) An order suspending a license or registration shall be effective from the date of Division action or within such additional time as the Division may, upon a showing of good cause, permit.

(b) An order temporarily prohibiting business between a casino service industry or vendor registrant and casino licensees or applicants, or any agent or employee thereof, shall become effective 15 days from the date of Division action unless the Division extends the time period for good cause shown.

#### **13:69B-3.3 Emergency orders; hearings; complaint**

Within five days after issuance of an emergency order pursuant to section 109 of the Act, the Division shall cause a complaint to be filed and served upon the person involved in accordance with the provisions of the Act and the regulations of the Division. Thereafter, the person against whom the emergency order has been issued and served shall be entitled to request a hearing before the Division.

#### **13:69B-3.4 (Reserved)**

## **SUBCHAPTER 4. PRELIMINARY EXCLUSION**

13:69B-4.1 Preliminary placement on the exclusion list

13:69B-4.2 Preliminary exclusion; burden of proof; service of order

### **13:69B-4.1 Preliminary placement on the exclusion list**

(a) In accordance with the provisions of N.J.A.C. 13:69G-1.5A, the Division may preliminarily place a candidate on the exclusion list pending completion of the plenary hearing for exclusion.

(b) Unless otherwise ordered by the Division, a plenary hearing on the exclusion shall be initiated within 30 days after the receipt of a request for a plenary hearing or the date of the preliminary placement on the list, whichever is later.

### **13:69B-4.2 Preliminary exclusion; burden of proof; service of order**

(a) An action for preliminary exclusion shall be a limited pre-exclusion proceeding. The purpose of such action is to determine if there is a reasonable possibility that a candidate satisfies the criteria for exclusion established by section 71 of the Act and N.J.A.C. 13:69G.

(b) Preliminary exclusion shall be decided on the basis of the reliable documentary or other supporting evidence.

(c) A preliminary order of the Division designating a candidate as an excluded person shall, within five days of its entry, be served upon the candidate and all casino licensees.

(d) A Division order denying an application for preliminary placement of a candidate on the list shall be served upon the candidate.

## **SUBCHAPTER 5. (RESERVED)**

## **SUBCHAPTER 6. INVESTIGATIVE HEARINGS**

### **13:69B-6.1** Investigative hearings

#### **13:69B-6.1 Investigative hearings**

Pursuant to N.J.S.A. 5:12-66 and 76, the Division may conduct investigative hearings concerning the conduct of gaming and gaming operations, the operation and administration of casino control laws in this and in other jurisdictions, and any other matters within the scope of the powers, duties and responsibilities of the Division.

## **SUBCHAPTER 7. (RESERVED)**



## **SUBCHAPTER 8. ADMINISTRATIVE REVIEW OF UNPAID FEES AND CIVIL PENALTIES**

- 13:69B-8.1 Commencement
- 13:69B-8.2 Repayment plans
- 13:69B-8.3 Administrative review conference
- 13:69B-8.4 Disposition of fee matters and civil penalties
- 13:69B-8.5 Restoration upon payment

### **13:69B-8.1 Commencement**

(a) The Division may, on its motion, administratively review the issuance or retention of any license, the registration of any person, the issuance of any order pursuant to N.J.A.C. 13:69A-8.10 or 8.11, the acceptance of any application or the failure to pay any civil penalty where cause exists to question whether all required fees or civil penalties have been paid.

(b) The Division shall initiate the administrative review by notifying any person who apparently has failed to pay a required fee or civil penalty that the Division may impose the sanctions set forth in N.J.A.C. 13:69A-9.3 unless the person attends or is represented at an administrative review conference conducted by the Division.

(c) The notice scheduling an administrative review conference shall be served by regular or certified mail, return receipt requested. The notice shall specify a date for the conference that is not earlier than 15 days after the date the notice is served and shall schedule a date subsequent to the date of the conference on which the Division shall take further action pursuant to N.J.A.C. 13:69A-9.3.

(d) Notwithstanding any other provision of this subchapter, the question of an outstanding fee or civil penalty may be consolidated with a contested case matter and scheduled for a hearing pursuant to N.J.A.C. 13:69B-2.

### **13:69B-8.2 Repayment plans**

If, at any time after the administrative review is initiated, the person admits the debt but reasonably demonstrates that it cannot immediately pay in full, then the Division may structure a repayment schedule consistent with the ability to pay. If the person agrees to the terms of the repayment schedule, further action in the administrative review shall be postponed in order to afford the person the opportunity to satisfy the terms of the repayment agreement. If a default occurs under a repayment agreement, the administrative review shall be reinstituted; provided, however, that no further repayment plan shall be allowed unless the debtor demonstrates that extraordinary circumstances exist. The administrative review shall cease and the matter shall be closed once the Division is satisfied that the person has fully complied with the terms of the repayment agreement.

### **13:69B-8.3 Administrative review conference**

(a) The administrative review conference is an informal proceeding designed to facilitate a fair, expeditious and orderly disposition of the Division's administrative review of unpaid fees and civil penalties. Any person that is notified to attend such a conference is required to appear and may be represented by counsel. If the person so notified is a corporation, it may appear without counsel provided it does so through one of its principals.

(b) Attendance at a scheduled administrative review conference is mandatory. The failure to attend such a conference shall constitute cause to dismiss immediately all applications, or suspend all licenses, registrations or permissions held, submitted by or granted to the person served with notice pursuant to N.J.A.C. 13:69B-8.1.

(c) During the administrative review conference, the person required to

attend the conference may present any information that would demonstrate that all required payments have been made.

#### **13:69B-8.4 Disposition of fee matters and civil penalties**

(a) If, after the administrative review is initiated, the Division determines that no debt is owed, or the debtor pays the debt in full, the matter shall be closed.

(b) Any issues concerning a debt that are not resolved by an administrative review conference shall either proceed to a hearing before the Division on the date specified in a notice served pursuant to N.J.A.C. 13:69B-8.1(c) or be consolidated with a contested case, unless, prior to the Division hearing the matter, the debt is paid in full or a repayment plan is accepted by the Division.

(c) At any hearing held pursuant to this section or pursuant to N.J.A.C. 13:69B-2, the Division may impose the applicable sanctions set forth in N.J.A.C. 13:69A-9.3 on any person who has failed to pay all required fees or civil penalties owed by that person.

#### **13:69B-8.5 Restoration upon payment**

(a) Upon payment of any outstanding fee or civil penalty, the Division shall reinstate any license, registration or permission administratively suspended by the Division pursuant to N.J.A.C. 13:69A-9.3, or rescind any administrative order prohibiting employment or the conduct of business entered pursuant to N.J.A.C. 13:69A-9.3.

(b) Any application that has been administratively dismissed shall be reactivated if, within 45 days of the dismissal, all outstanding amounts are paid. If full payment is received after the expiration of this 45 day period, the following application requirements shall apply:

1. If the dismissed application requested the issuance of a license or registration, a new application shall be filed, including the payment of the appropriate fee set forth in N.J.A.C. 13:69A-9; or

2. If the dismissed filing related to a vendor or junket registration filing, business may be conducted with casino licensees and applicants upon the filing of a Vendor Registration Form or a Junket Enterprise Registration, as appropriate, in accordance with N.J.A.C. 13:69C-10.4.